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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Amendment of the Commission's) RM 8577
Rules to Preempt State and Local)
Regulation of Tower Siting for)
Commercial Mobile Service Providers)

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Statement in Support of
The Cellular Telecommunications Industry Association's
Petition for Rulemaking
by
CELLULAR COMMUNICATIONS OF PUERTO RICO, INC.

Cellular Communications of Puerto Rico, Inc. ("CCPR") supports the petition of the Cellular Telecommunications Industry Association ("CTIA") requesting the initiation of a rulemaking proceeding directed at preempting state and local regulation of tower sites used for the provision of service to the public by commercial mobile radio licensees. CTIA's petition clearly demonstrates that the Commission has the legal authority to preempt state and local regulations that inhibit the expeditious and economically efficient provision of mobile services to the public. The petition also illustrates the intent of Congress to eliminate government regulation that interferes with an efficient and competitive mobile telecommunications market.

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CCPR, through its affiliates, is the nonwireline cellular licensee in eleven of the twelve cellular MSAs and RSAs in the Commonwealth of Puerto Rico and in both RSAs in the United States Virgin Islands. Depending upon the applicable zoning regulations, the cell site licensing process in Puerto Rico has at least two or three steps, involving the Puerto Rico Planning Board, the Permits and Regulation Administration of the Commonwealth of Puerto Rico ("ARPE"), and the Environmental Quality Board (the "EQB"). These regulations are unduly onerous and far more restrictive than necessary to protect the interests of the Commonwealth and its citizens.

For example, in many cases the Planning Board must first approve the proposed land use, which may require a public hearing. Typically this process is so contentious and lengthy that licensees must switch to other locations that don't necessitate hearings, even if the new locations are not as favorable in the level of service they can provide for the public. Next, comprehensive plans for a prospective cell site must be submitted to ARPE in advance of any construction because ARPE has extensive rules regarding the construction of radio facilities on the islands of Puerto Rico. The plans must include complete details of all antennas and other appurtenances that will be attached to the tower. Any subsequent change of plans, regardless of how minor (*e.g.* a change from an omnidirectional to a directional antenna model or the addition of a new microwave dish) requires a

repeat of the entire process. (This process had become so deliberative that CCPR was forced to resort to bring suit in federal court to move the processing of several of its sites from a dead standstill.)

Finally, notwithstanding the current categorical exclusion of cellular and microwave facilities from the Commission's electromagnetic frequency ("EMF") rules, *see* 47 C.F.R. § 1.1307(b) Note 1, the Commonwealth's regulations require that CCPR demonstrate its cellular and microwave facilities' compliance with EMF regulations approximately *50 times* more restrictive than even the most recent (1992) standards of the American National Standards Institute.

As if this were not already too much regulation, recent legislation may have given the 78 municipalities in the Commonwealth authority to adopt their own idiosyncratic planning and zoning restrictions — despite the absence of any significant technical or scientific expertise — promising an even more lengthy and burdensome multi-jurisdictional regulatory process. The Commonwealth's regulations needlessly impede and delay the provision of service to the public and ultimately result in higher rates for cellular subscribers.

The Commonwealth's local tower site regulations are far more disruptive than those of other jurisdictions in the United States. The goal of vigorous competition in the provision of mobile services, as envisioned by Congress and the Commission, relies on an equal playing field. Yet, CCPR's principal competitor,

the Frequency Block B cellular carrier, is largely exempt from the same regulatory procedures because it is a government entity owned by the Commonwealth. Consequently, CCPR's competitor can respond to changing traffic conditions and add or modify cells much more quickly than can CCPR. This inequality will only increase in severity as new PCS competitors enter the marketplace.

Accordingly, CCPR realizes the import and urgency of CTIA's petition and urges the Commission to establish a proceeding to develop rules that would preempt inconsistent local regulation of commercial mobile radio tower sites.

Respectfully submitted,

CELLULAR COMMUNICATIONS OF PUERTO RICO, INC.

A handwritten signature in black ink, appearing to read "David H. Pawlik", written over a horizontal line.

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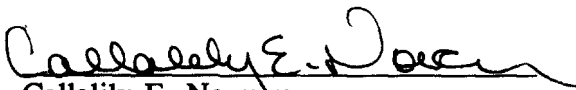
CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of February, 1995, I caused copies of the "Statement in Support of The Cellular Telecommunications Industry Association's Petition for Rulemaking" submitted by Cellular Communications of Puerto Rico, Inc. to be mailed via first-class postage prepaid mail to the following:

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